

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

Matthew T. Green,

Plaintiff,

v.

NCO Financial Systems Inc.,

Defendant.

:
: Civil Action No.: 3:13-cv-00249
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: **COMPLAINT**
: **JURY TRIAL DEMANDED**
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For this Complaint, the Plaintiff, Matthew T. Green, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, et. seq. ("TCPA") and North Carolina Fair Debt Collection Practices Act by the Defendant and its agents in their illegal efforts to collect a consumer debt.

2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that the Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

4. The Plaintiff, Matthew T. Green (“Plaintiff”), is an adult individual residing in Mecklenburg County, North Carolina, and is a “consumer” as the term is defined by 15 U.S.C. § 1692a(3) and is a “person” as defined by 47 U.S.C. § 153(10).

5. Defendant NCO Financial Systems Inc. (“NCO”), is a Pennsylvania corporation with an address of 507 Prudential Road, Horsham, Pennsylvania 19044, operating as a collection agency, and is a “debt collector” as the term is defined by 15 U.S.C. § 1692a(6) and is a “person” as defined by 47 U.S.C. § 153(10).

ALLEGATIONS APPLICABLE TO ALL COUNTS

A. The Debt

6. The Plaintiff allegedly incurred two financial obligations (the “Debts”) to Presbyterian Hospital (the “Creditor”).

7. The Debts arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a “debt” under 15 U.S.C. § 1692a(5).

8. The Debts were purchased, assigned or transferred to NCO for collection, or NCO was employed by the Creditor to collect the Debts.

9. The Defendant attempted to collect the Debts and, as such, engaged in “communications” as defined in 15 U.S.C. § 1692a(2).

B. NCO Engages in Harassment and Abusive Tactics

10. In or around September 2012, Defendants began contacting Plaintiff in an attempt to collect the Debts.

11. Defendants placed as many as nine calls a day to Plaintiff's home and cellular phones.

12. On at least one occasion, Plaintiff informed Defendant that he could not afford to satisfy either of the Debts at the time. Plaintiff attempted to establish a settlement agreement for monthly payments with Defendant; however, Defendant refused to accept any plan offered by Plaintiff and stated that the calls would not stop.

13. Plaintiff then requested that Defendant cease calling him regarding the Debts because he could not currently satisfy them.

14. Despite such requests, Defendant continued its aggressive and excessive calling campaign in an attempt to collect the Debts.

15. During one conversation, Defendant threatened Plaintiff that the calls "would not stop" until Plaintiff satisfied the Debts or filed bankruptcy.

16. Furthermore, Defendant failed to send Plaintiff written validation of both Debts as required by 15 U.S.C. § 1692g.

17. Defendant's calls were extremely harassing and caused Plaintiff a great deal of aggravation.

18. At all times mentioned herein, Defendant called Plaintiff on his cellular telephone using an automatic telephone dialing system ("ATDS") and/or by using a prerecorded or artificial message on a cellular telephone of 47 U.S.C. § 227(b)(1)(A)(iii).

19. Often times when Plaintiff answered a call from Defendant, he was met with a recording and there was not a person available with whom Plaintiff could speak.

20. Defendant at one time obtained prior express consent to place calls to Plaintiff's cellular telephone number, however it no longer had consent to call Plaintiff after being repeatedly instructed by Plaintiff to cease all calls to him.

21. The telephone number called by Defendant was assigned to a cellular telephone service for which Plaintiff incurs charges for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

22. The calls from Defendant to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

C. Plaintiff Suffered Actual Damages

23. The Plaintiff has suffered and continues to suffer actual damages as a result of the Defendants' unlawful conduct.

24. As a direct consequence of the Defendant's acts, practices and conduct, the Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment.

COUNT I

VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692, et seq.

25. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

26. The Defendant's conduct violated 15 U.S.C. § 1692d in that Defendant engaged in behavior the natural consequence of which was to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt.

27. The Defendant's conduct violated 15 U.S.C. § 1692d(5) in that Defendant caused a phone to ring repeatedly and engaged the Plaintiff in telephone conversations, with the intent to annoy and harass.

28. The Defendant's conduct violated 15 U.S.C. § 1692f in that Defendant used unfair and unconscionable means to collect a debt.

29. The Defendant's conduct violated 15 U.S.C. § 1692g(a) in that Defendant failed to send Plaintiff an initial letter within five days of its initial contact with Plaintiff as required by law.

30. The foregoing acts and omissions of the Defendant constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

31. The Plaintiff is entitled to damages as a result of Defendant's violations.

COUNT II

VIOLATIONS OF THE NORTH CAROLINA FAIR DEBT COLLECTION PRACTICES ACT, N.C. Gen.Stat. § 58-70, et seq.

32. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

33. The Plaintiff is a "person" as the term is defined by N.C. Gen.Stat. § 58-70-6(4).

34. The Defendant is a "collection agency" as the term is defined by N.C. Gen.Stat. § 58-70-15, and is duly licensed collect debt in the state of North Carolina pursuant to N.C. Gen.Stat. § 58-70-1.

35. The Defendant caused a telephone to ring or engaged the Plaintiff in telephone conversation with such frequency as to be unreasonable or to constitute a harassment to the

Plaintiff under the circumstances or at times known to be times other than normal waking hours of the Plaintiff, in violation of N.C. Gen.Stat. § 58-70-100(3).

COUNT III
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –
47 U.S.C. § 227, et seq.

36. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

37. Without prior consent the Defendant contacted the Plaintiff by means of automatic telephone calls or prerecorded messages at a cellular telephone or pager in violation of 47 U.S.C. § 227(b)(1)(A)(iii).

38. Defendant placed automatic telephone calls to Plaintiff's cellular telephone after Plaintiff had revoked his consent to call his number. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

39. As a result of each call made in negligent violation of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

40. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against Defendant:

1. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against Defendant;
2. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against Defendant;
3. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against Defendant;
4. Actual damages pursuant to N.C. Gen.Stat. § 58-70-130(a);
5. Statutory damages of \$4,000.00 for each violation pursuant to N.C. Gen.Stat. § 58-70-130(b);
6. Attorney's fees pursuant to N.C.G.S. § 75-16.1;
7. Statutory damages pursuant to 47 U.S.C. § 227(b)(3)(B) & (C);
8. Punitive damages; and
9. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: April 24, 2013

Respectfully submitted,

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